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RICHARD W. WIEKING
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UNITED STATES DISTRICT COURT

FOR NORTHERN OF NORTHERN CALIFORNIA

ALFREDO HERNANDEZ, individually and on
behalf of others similarly situated,

Plaintiff,

vs.

AMZONE LLC, and DOES 1-10

Defendants

Case No.:

C08 02037

**CLASS ACTION COMPLAINT AND
DEMAND FOR JURY TRIAL:**

1). Violation of California Labor Code §1194;
2). Violations of The Fair Labor Standards Act
(Non-payment of overtime); 3). Violation of
Labor Code §226.7; 4). "Waiting Time"
Penalties under California Labor Code §203;
and 5). For Restitution of Unpaid Wages in
Violation of California Unfair Trade Practices
Act under Business and Professions Code §
17203

RS

Plaintiff, ALFREDO HERNANDEZ, on his own behalf and on behalf of others similarly
situated, alleges as follows:

NATURE OF CLAIM

1. This is a class action on behalf of putative members who had been employed on
hourly rate basis by Defendants AMZONE LLC, and Does 1-10 (collectively "AMZONE LLC")
during the last four years of the filing of this Complaint, seeking damages arising out of their
employer's failure to pay overtime as required by the Fair Labor Standards Act ("FLSA") and the
California Wage Orders and statutes. On his own behalf and on behalf of other similarly situated
others who fall with the relevant statutory periods, Plaintiff seeks compensatory damages for
unpaid wages under California Labor Code and Wage Orders, liquidated damages under 29

1 U.S.C. §216(b), damages under California Labor Code §226.7 for failure to provide meal and
2 rest periods, waiting time penalties under California Labor Code § 203, and attorney's fees, costs,
3 pre judgment interest pursuant to California Labor Code § 1194(a) and 29 U.S.C. § 216(b), and
4 restitution under California Unfair Trade Practices Act under California Business and
5 Professions Code § 17203.

6 2. Plaintiff brings this collective action on behalf of himself and other employees
7 pursuant to 29 U.S.C. §216(b) with respect to unpaid overtime and liquidated damages arising
8 under Fair Labor Standards Act, 29 U.S.C. §201, *et. seq.*

9 PARTIES

10 3. During the last four years, Plaintiff was employed with Defendant AMZONE
11 LLC as a restaurant worker.

12 4. AMZONE LLC, is a limited liability company registered in the state of
13 California, with its primary place of business, according to information and belief, in San Jose,
14 California. AMZONE LLC is engaged in the business of owing and operating Taco Bell
15 restaurant franchises throughout California.

16 5. The individual Defendants Does 1 to 10, inclusive, according to information and
17 belief, are the owners and officers or managers of AMZONE LLC, having control over the work
18 conditions and situations of Plaintiff and other employees of AMZONE LLC.

19 PLAINTIFFS' CLASS ACTION ALLEGATIONS

20 6. Plaintiff brings this action as a class action pursuant to Federal Rules of Civil
21 Procedure 23(a) and (b)(3) on behalf of all those who had been employed as employees on
22 hourly basis by Defendants with respect to the claims alleged herein arising under the California
23 Labor Code, and California Business and Professions Code §17200, *et. seq.*

24 7. Plaintiff also brings this action on behalf of such class members pursuant to 29
25 U.S.C. §216(b) with respect to unpaid overtime and liquidated damages arising under Fair Labor
Standards Act, 29 U.S.C. §201, *et. seq.*

8. The members of the purported class or subclass are so numerous that joinder of

1 all members is impracticable. According to information and belief, Defendant AMZONE LLC
2 had employed a large workforce of restaurant workers and others. While the exact number of
3 class or subclass members is unknown to Plaintiff at this time and can only be ascertained
4 through appropriate discovery, Plaintiff believe that there are at least 30 or more members in the
5 proposed class. Members of the class or subclass may be identified from payroll and time records
6 maintained by AMZONE LLC, and may be notified of the pendency of this action by mail, or
7 other appropriate media, using the notice similar to that customarily used in the wage and hours
8 class actions.

9 9. Plaintiff's claims are typical of the claims of the members of the class and
10 subclass as all members of the class and subclass are similarly affected by defendants' wrongful
11 conduct in violation of federal and state laws governing labor standards that is complained of
12 herein.

13 10. Plaintiff will fairly and adequately protect the interests of the members of the
14 class and subclass and has retained counsel competent and experienced in wage and hour
15 litigation.

16 11. Common questions of law and fact exist as to all members of the class and
17 predominate over any questions solely affecting individual members of the class. Among the
18 questions of law and fact common to the class and subclass are:

19 (a) whether the federal and state wage hours laws were violated by defendants' acts as
20 alleged herein;

21 (b) whether defendants have properly paid all putative class members for the hours that
22 were worked in excess of 8 hours a day or 40 hours a week;

23 (c) whether the Defendants are liable for failure to pay the subclass members whose
24 employment terminated during the last three years the overtime wages owed ascertainable at the
25 time of termination of their employment;

(d) to what extent the members of the class and subclass have sustained damages and the
proper measure of damages.

1 12. A class action is superior to all other available methods for the fair and efficient
2 adjudication of this controversy since joinder of all members is impracticable. Furthermore, as
3 the damages suffered by individual class and subclass members may be relatively small, the
4 expense and burden of individual litigation make it impossible for members of the class to
5 individually redress the wrongs done to them. There will be no difficulty in the management of
6 this action as a class action.

7 8 **SUBJECT MATTER JURISDICTION AND VENUE**

9 13. Subject matter jurisdiction of this action of this Court is based upon Fair Labor
10 Standards Act, 29 U.S.C. §§201 *et. seq.* and the pendant jurisdiction of this Court.

11 14. This Court is a proper venue, since all events giving rise to the claims of the
12 named Plaintiff and the putative class members occurred in this district.

13 **SUBSTANTIVE ALLEGATIONS**

14 15. Plaintiff was employed on hourly rates by Defendants for some period during the
15 last four years.

16 16. During the last four years, Plaintiff and other hourly employees worked over 8
17 hours a day and forty fours a week from time to time on a regular basis.

18 17. Plaintiff and other hourly employees were not subject to any exemptions from
19 overtime pursuant to the Fair Labor Standards Act and California Labor Code.

20 18. Within 72 hours of termination of Plaintiff and other hourly employees,
21 Defendants willfully failed to pay them wages owed, the amount of which was readily
22 ascertainable at the time of termination.

23 **COUNT ONE**

24 *Violation of California Labor Code, Non Payment of Overtime*

25 *Labor Code Sections §510*

19. Plaintiff re-alleges and incorporates the allegations of paragraphs 1-18 as if fully
stated herein.

1 20. During last four years, Plaintiff and other hourly employees employment were
2 subject to California Labor Code Sections 1194 and 510, and the applicable Wage Orders
3 promulgated by the California Industrial Welfare Commission pursuant to Labor Code Section
4 1173, which required all employees to be paid overtime for work performed in excess of forty
5 hours per week or eight hours per day, unless specifically exempted by the law.

6 21. At all times relevant herein, Plaintiff and other hourly employees regularly
7 worked in excess of forty hours per week and in excess of eight hours per day. Plaintiff and other
8 hourly employees received only straight time, or at some times nothing at all, from Defendants
9 for these overtime hours.

10 22. During last four years, Defendants knowingly caused, suffered and permitted
11 Plaintiff and other hourly employees to regularly work in excess of forty hours per week and
12 eight hours per day without paying them one and one half or double of their regular rate of pay.

13 23. By not paying overtime wages in compliance with the state law, Defendants
14 violated Plaintiff's and other hourly employees' rights under the law, specifically California
15 Labor Code Section 1194.

16 24. As a direct and proximate result of Defendants' failure to pay proper wages
17 under the California Wage Orders, Plaintiff and other hourly employees incurred general
18 damages in the form of lost overtime compensation in amounts to be proven at trial.

19 25. Defendants had been aware of the existence and requirements of the California
20 Labor Code Sections 510 and 1194 and the Wage Orders, and willfully, knowingly and
21 intentionally failed to pay Plaintiff and other hourly employees the overtime compensation due
22 to them at the time their employment ended.

23 26. Plaintiff was required to retain attorneys for the purpose of bringing this action
24 and is entitled to an award of attorney's fees and pre-judgment interest pursuant to California
25 Labor Code Section 1194(a).

WHEREFORE, Plaintiff prays for judgment as set forth below.

COUNT TWO*Violation of the Fair Labor Standards Act**29 U.S.C. § 201, et seq.*

27. Plaintiff re-alleges and incorporates the allegations of paragraphs 1-26 as if fully stated herein.

28. At all relevant times herein, Plaintiff and other hourly employees' employment was subject to the provisions of the Fair Labor Standards Act of 1938, as amended ("FLSA"), 29 U.S.C. Section 201, *et seq.*

29. 29 U.S.C. § 207 requires all employees to be paid overtime for work performed in excess of forty hours per week, unless specifically exempted by the law.

30. Although Plaintiff and other hourly employees were not so exempt during their employment with Defendants, and although Defendants had been fully aware of both the hours worked and the duties assigned to the Plaintiff and other hourly employees, Defendants knowingly caused, suffered, and permitted Plaintiff and other hourly employees to regularly work in excess of forty hours per week without paying them one and one half of their regular rate of pay.

31. By not paying overtime wages in compliance with FLSA, Defendants violated the rights of Plaintiff and other hourly employees under FLSA.

32. As a direct and proximate result of Defendants' failure to pay proper wages under the FLSA, Plaintiff and other hourly employees incurred general damages in the form of lost overtime wages.

33. Defendants intentionally, with reckless disregard for their responsibilities under the FLSA, and without good cause, failed to pay Plaintiff and other hourly employees, their proper pay, and thus Defendants are liable to Plaintiff and other hourly employees for liquidated damages in an amount equal to their lost overtime wages pursuant to 29 U.S.C. § 216(b).

34. Plaintiff was required to retain attorneys for bringing this action and is entitled to an award of reasonable attorney's fees pursuant to 29 U.S.C. § 216(b).

1 WHEREFORE, Plaintiff prays for judgment as set forth below.

2 **COUNT THREE**

3 *Failure to Provide Meal Periods*

4 *California Labor Code § 226.7*

5 35. Plaintiff re-alleges and incorporates the allegations set forth in paragraphs 1-34
6 as if fully restated hereinafter.

7 36. At all relevant times herein, Plaintiff's and other hourly employees' employment
8 with Defendants was subject to the provisions of California Labor Code § 226.7, which requires
9 the employer to provide employees a thirty-minute meal break for every five hours worked,
10 unless expressly exempted.

11 37. At all times relevant herein, Plaintiff and other hourly employees worked at least
12 5 hours a day, and were not provided meal period as required by law.

13 38. For each time that Plaintiff and other hourly employees were not provided the
14 required meal period, Plaintiff and other hourly employees are entitled to recover one additional
15 hour of pay at each employee's regular rate of compensation pursuant to California Labor Code
16 section 226.7.

17 39. Plaintiff and other hourly employees are therefore entitled to payment, in an
18 amount to be proved at trial for additional pay for each meal period that Defendants failed to
19 provide.

20 WHEREFORE, Plaintiff prays for judgment as set forth below.

21 **COUNT FOUR**

22 *Penalty for Failure to Pay Wages at Termination*

23 *California Labor Code Sec. 203*

24 40. Plaintiff re-alleges and incorporates the allegations of paragraphs 1-39 as if fully
25 stated herein.

41. Within 72 hours of the termination of Plaintiff and other hourly employees,

1 Defendants failed to pay them the wages owed ascertainable at the time of termination.

2 42. Failure to pay proper wages at an employee's termination as required by Labor
3 Code §201 subjects the employer to penalties provided for in Labor Code Section 203, up to 30
4 days of wages.

5 43. As of this date these wages have not been paid to Plaintiff and other hourly
6 employees, thus making Defendants liable to Plaintiff and other hourly employees for penalties
7 equal to 30 days wages in amounts to be proven at trial.

8 WHEREFORE, Plaintiff prays for judgment as set forth below.

9 **COUNT FIVE**

10 *For Restitution of Unpaid Overtime Wages
in Violation of California's Unfair Trade Practices Act*

11 *Business and Profession Code § 17203*

12 44. Plaintiff re-alleges and incorporates the allegations of paragraphs 1-36 as if fully
13 stated herein.

14 45. At all times relevant herein, Plaintiff's and other hourly employees' employment
15 with Defendants were subject to California Labor Code and applicable Wage Orders promulgated
16 by the California Industrial Welfare Commission as well as FLSA, all of which required all
17 employees to be paid overtime for work performed in excess of forty hours per week or eight hours
18 per day unless specifically exempted by the law. California law also requires premium pay for missed
19 meal periods.

20 46. During last four years, Defendants were subject to the California Unfair Trade
21 Practices Act (California Business and Professions Code Section §17000 *et seq.*), but failed to
22 pay the Plaintiff and other hourly employees overtime pay and premium pay for missed meal
23 periods as required by FLSA, California Labor Code and applicable Wage Orders.

24 47. During the last four years, Defendants kept to themselves the unpaid overtime
25 and meal period premiums which should have been paid to the Plaintiff and other hourly
employees.

1 48. By doing so, Defendants violated California Unfair Trade Practices Act,
2 Business and Professions Code §17200, *et seq.* by committing acts prohibited by applicable
3 California Wage Orders as well as FLSA, and thus giving them a competitive advantage over
4 other employers and businesses with whom Defendants were in competition and who were in
5 compliance with the law.

6 49. As a direct and proximate result of Defendants' violations, the rights of the
7 Plaintiff and other hourly employees under the law were violated, causing them to incur general
8 damages in the form of unpaid wages and lost wages to which they were legally entitled.

9 50. The Defendants had been aware of the existence and requirements of the Unfair
10 Trade Practices Act and the requirements of state and federal wage and hour laws, but willfully,
11 knowingly, and intentionally failed to pay Plaintiff and other hourly employees overtime pay and
12 missed meal premiums due.

13 51. Having been illegally deprived of the overtime pay and other wages to which
14 they were legally entitled, Plaintiff and other hourly employees herein seek restitution of such
15 wages pursuant to the Business and Professions Code §17203.

16 WHEREFORE, Plaintiff prays for judgment as set forth below.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, the Plaintiff prays for judgment against the Defendants and demands as
19 follows:

- 20 1. Award to Plaintiff and other hourly employees compensatory damages for unpaid
21 overtime in amounts to be proven at trial to Plaintiff and other hourly employees;
- 22 2. Award to Plaintiff and other hourly employees liquidated damages equal to the
23 overtime pay owed to Plaintiff and other hourly employees;
- 24 3. Award to Plaintiff and other hourly employees the meal period premium owed
25 during last four years;

1 4. Award to Plaintiff and other hourly employees the pre-judgment interest of 10%
2 on the unpaid overtime compensation and unpaid meal period premium pursuant to California
3 Labor Code §§ 1194(a) & 218.6.

4 5. Award to Plaintiff and other hourly employees the waiting time penalty damages of
5 thirty days wages pursuant to California Labor Code Section 203 in amounts to be proven at
6 trial;

7 6. Award to Plaintiff and other hourly employees the restitution of unpaid overtime
8 pay and other wages pursuant to California Business and Professions Code §17203 in amounts to
9 be proven at trial;

10 7. Enter a permanent injunctive order against Defendants ensuring the compliance
11 with the FLSA and California Labor Code and wage orders;

12 8. For reasonable attorney's fees pursuant to California Labor Code §1194(a) and 29
13 U.S.C. §216(b) of the FLSA;

14 9. Award Plaintiff the costs of suit herein.

15 10. Grant such other and further relief as the Court may deem appropriate.

16 Dated: March 19, 2008

17 By: /s/ ADAM WANG
18 Attorney for Plaintiff
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JS 44 - No. CALIF (Rev. 4/97)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO)

I.(a) PLAINTIFFS

ALFREDO HERNANDEZ, individual on behalf
of others similarly situated

DEFENDANTS

AMZONE LLC, and DOES 1-10

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

San Jose

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
TRACT OF LAND INVOLVED. San Jose

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Adam Wang
12 South First Street, Suite 613
San Jose, CA 95113

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- (For diversity cases only)
- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury Med Malpractice <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth In Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Legislation <input type="checkbox"/> 791 Empl.Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (US Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/CC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motion to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

VI. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY) 29 U.S.C. 201, et seq.

Wage & Hour --overtime violation

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION DEMAND \$
UNDER F.R.C.P. 23

☐ CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ YES ☐ NO

VIII. RELATED CASE(S) IF ANY PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AN "X" IN ONE BOX ONLY) ☐ SAN FRANCISCO/OAKLAND ☒ SAN JOSE

DATE

SIGNATURE OF ATTORNEY OF RECORD

4/17/08